

REMARKS

Claims 1-3 and 5 are currently pending in the present application. In the Office Action, Claims 1-3 and 5 have been rejected under 35 U.S.C. §102(a) as being anticipated by European Patent Application Publication No. EP 1039 768 A2 (*Sim*).

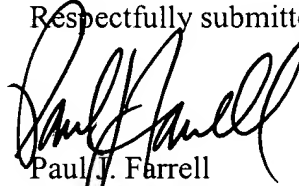
With regard to the Examiner's rejection of independent Claim 1, in order to distinguish this claim from *Sim*, Claim 1 was previously amended to more clearly recite the confirmation step, i.e., displaying the selected image and then confirming the image.

In the Response to the arguments section, the Examiner asserts that *Sim* teaches displaying the selected image file on a display of the mobile phone, and then confirming the displayed image, after the selection step. More specifically, the Examiner cites FIG. 9A and paragraphs 52 and 53. However, upon a careful review of *Sim*, Applicant finds no section that teaches the confirmation step recited in Claim 1 of the present application, i.e., displaying the image after selection, and then confirming the displayed image, before transmission. It appears that FIG. 9 is asserted as teaching these elements. There is no description of FIGs. 9A and 9B in *Sim*, nor are the steps of Claim 1 illustrated therein. Accordingly, it is respectfully submitted that the Examiner is incorrect in rejecting Claim 1 as being anticipated by *Sim*. Based on at least the foregoing, withdrawal of the rejection of Claim 1 is respectfully requested.

Independent Claim 1 is believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3 and 5, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3 and 5 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-3 and 5, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the printed name.

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/MJM/dr